IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 1574 of 2007(K)

CC.12/1999 of IV ADDL. DISTRICT COURT, ERNAKULAM

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PETITIONER:

K.B.MOHANDAS, SUPERINTENDENT, CENTAL EXCISE,MOOVATTUPUZHA(NOW WORKING AS SUPERINTENDENT OF CENTAL EXCISE,I.S.PRESS ROAD,REVENUE BUILDING, ERNAKULAM,KOCHI-682 018)RESIDING AT NEETHU NIVAS, FR.MANUAL ROAD,KATHRIKADAVU,KALOOR, ELAMKULAM VILLAGE, KANAYANOOR TALUK, KOCHI-682 017.

BY ADV. SRI.TOM JOSE

RESPONDENTS:

SPECIAL POLICE ESTABLISHMENT,
CENTRAL BUREAU OF INVESTIGATION, KOCHI-682 017,
REPRESENTED BY THE COUNSEL FOR THE C.B.I.

BY SRI.S. SREEKUMAR (S.C. FOR THE C.B.I.).

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

W.P.(c) NO. 1574 OF 2007-K

Dated this the 19th day of January, 2007

JUDGMENT

The petitioner faces indictment in a prosecution under the Prevention of Corruption Act. The case was filed as early as in 1999. It has now reached the stage of defence evidence. At the stage of defence, the petitioner filed a list of witnesses as Ext.P3. It is submitted that the learned Special Judge, by a separate order, permitted the examination of 7 out of the 15 witnesses who were cited by the defence. That order passed by the learned Special Judge is not produced before this Court. I may assume that the said direction is not specifically challenged.

2. The grievance of the petitioner in this petition is that Exts.P4 to P10 and P18 to P20 petitions filed by the petitioner at the defence stage are not allowed by the learned Special Judge. It is submitted that the refusal of opportunity to the petitioner to summon the witnesses to produce documents is working out great prejudice and failure of

justice to the petitioner. In these circumstances, it is prayed that the powers under Arts.226 and 227 of the Constitution may be invoked to interfere with the orders passed.

3. The learned counsel for the petitioner was requested to take me through the details of the prayers. The learned counsel for the petitioner submits that he wants to challenge the orders passed in Exts.P4, P5, P7, P8, P9 and P10 petitions. Such orders are Exts.P11, P12, P14, P15, P16 and P17. It is his further grievance that Exts.P18, P19 and P20 have also not been allowed by the learned Special Judge, the orders thereon have not been produced. The order – Ext.P13 passed on Ext.P6 application is not challenged.

4. I have heard the learned counsel for the petitioner in detail. The purpose of petitions – Exts.P4, P5 and P7 to P10 have been explained to me in detail. I have been taken through the relevant orders – Exts.P11, P12 and P14 to P17. At this stage of the proceedings, it is not necessary for me to consider the contentions in greater detail. The impugned orders are interlocutory orders. Normally, the challenge against the orders passed in the interlocutory applications must wait till the case is finally disposed of. The bar under Sec.397(2) of the Cr.P.C.

clearly discourages the challenge during the pendency of the proceedings which would retard the progress of the trial. While considering the prayer to interfere with such interlocutory orders though not in exercise of revisional jurisdiction, this Court cannot afford to lose sight of the purpose for which the challenge against the interim orders is discouraged and not entertained while exercising of the revisional jurisdiction.

5. Having considered the petitions – Exts.P4, P5 and P7 to P10 and the orders thereon – Exts.P11, P12 and P14 to P17 respectively, I must say that I do not find any reason which would justify the invocation of the constitutional jurisdiction under Arts.226 and 227 of the Constitution at this stage. Though it is said that Exts.P18 to P20 petitions have been disallowed, the orders thereon have not been produced and it is not possible to venture or hazard any opinion on the acceptability of the rejection of the said prayers.

6. The learned Standing Counsel for the C.B.I., in the course of submissions before me, offers to produce the norms relating to the valuation under the C.P.W.D. Scheme before the learned Special Judge. I make note of that offer.

7. In the result, this writ petition is dismissed making note

of the offer made by the learned Standing Counsel for the C.B.I. to produce the norms relating to the C.P.W.D. valuation referred to in Exts.P10 and P17.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge